

READ REGULATION 5 IN DETAIL AND LOOK AT EXAMPLES

HEADING

SET OUT DECEASED'S PERSONAL DETAILS

NAME

ID NUMBER

MARITAL STATUS

DATE OF DEATH

MASTER'S REFERENCE NUMBER

EXAMPLES

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE ESTATE OF THE LATE KEITH TAYLOR, IDENTITY NUMBER 620703 5002 086, UNMARRIED WHO DIED INTESTATE ON 15 JUNE 2011

MASTER'S REFERENCE NUMBER : 3457/2011

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE JOINT ESTATE OF THE LATE ROY JONES IDENTITY NUMBER 721001 5263 083 AND SURVIVING SPOUSE WENDY JONES IDENTITY NUMBER 740512 0029 086 MARRIED IN COMMUNITY OF PROPERTY TO EACH OTHER, WHO DIED ON 12 DECEMBER 2011, MASTER'S REF NO : 3456/2012

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE ESTATE OF THE LATE SUSAN WINDSOR IDENTITY NUMBER 580712 0376 082, MARRIED OUT OF COMMUNITY OF PROPERTY (WITH ACCRUAL), AND WHO DIED AT CAPE TOWN ON 30 MAY 2010, MASTER'S REF. NO. : 1234/2010

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE MASSED ESTATE OF THE LATE SCOTT SMITH IDENTITY NUMBER 580612 5009 086 AND SANDRA SMITH IDENTITY NUMBER 620713 0059 083, SPOUSES WHO WERE MARRIED OUT OF COMMUNITY OF PROPERTY TO EACH OTHER (NO ACCRUAL) WHO DIED ON 3 MARCH 2009, SURVIVING SPOUSE ADIATED MASTER'S REF NO. : 3458/2009

FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT IN THE
PARTIALLY MASSED ESTATE OF THE LATE SAM RYAN ID 481216 5001 083
AND DOTHORY RYAN, SPOUSES MARRIED IN COMMUNITY OF PROPERTY TO
EACH OTHER, WHO DIED ON 3 JULY 2009
SURVIVING SPOUSE ADIATED
MASTER'S REF NO : 8743/2009

ITEM NUMBERS, DESCRIPTION OF ITEMS, VOUCHER NUMBERS, MONEY COLUMNS

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>VOUCHER</u>	<u>DEBIT</u>	<u>CREDIT</u>
			-	+
	<u>ASSETS</u>			
1.	Asset x	1		100.000-00
2.	Asset y	2		200.000-00
	<u>LIABILITIES</u>			
3.	Liability a	3	7.000-00	
4.	Liability b	4	3.000-00	
	TOTAL LIABILITIES			
	ESTATE DUTY		10.000-00	
	BALANCE FOR DISTRIBUTION		Nil	
			290.000-00	
			300.000-00	300.000-00

LIQUIDATION ACCOUNT

- ASSETS AND LIABILITIES
- ASSETS - IMMOVABLE AND MOVABLE

RULE = DISCLOSE SALE PRICE OR VALUE AS AT DATE OF DEATH
FOR ALL ASSETS

1. PROPER DESCRIPTION
2. AMOUNT
3. WHERE THAT AMOUNT COMES FROM
4. WHAT ARE WE DOING WITH IT
5. WHY ?

4 & 5 = DIVESTMENT NOTE

IF ASSET SOLD / IS CASH – 4 & 5 REPLACED WITH
SALE PRICE / CASHED IN / COLLECTED

IMMOVABLE PROPERTY

DESCRIPTION AS PER TITLE DEED

ERF 1234 CAPE TOWN
SITUATE IN THE CITY OF CAPE TOWN
CAPE DIVISION, PROVINCE OF THE WESTERN CAPE
In extent : 639 square metres
HELD BY DEED OF TRANSFER 5678/2002

(Also known as 32 Belmont Avenue, Gardens, Cape Town)

Fair market value

Valued by Remax Estate Agents

R850.000-00

(Awarded to Catherine Howard, surviving spouse
of the Deceased in terms of Clause 4.2. of the
Deceased's Will dated 23 July 2001)

OR IF SOLD :

ERF 1234 CAPE TOWN
SITUATE IN THE CITY OF CAPE TOWN
CAPE DIVISION, PROVINCE OF THE WESTERN CAPE
In extent : 639 square metres

HELD BY DEED OF TRANSFER 5678/2002

(Also known as 32 Belmont Avenue, Gardens, Cape Town)

Sold by private treaty to William Kent in terms
Deed of Sale dated 12 January 2012

SALE PROCEEDS R850.000-00

Remember the liabilities that attach to the asset, namely

- Costs of valuation
- Agent's commission
- Brokerage fee
- Amounts outstanding on assets – mortgage bond, motor vehicle finance
 - Conveyancing costs of transfer for transfer Estate to Heir (no transfer duty)
 - No conveyancing costs if selling & transferring to buyer (buyer pays transfer duty & conveyancing costs)

MOVABLE PROPERTY
PROPER DESCRIPTION

MOTOR VEHICLE
2007 BMW 530 d
REGISTRATION NUMBER CA 106 302

Valued by Auto Atlantic Dealers R120.000-00

(Awarded to JACKY HOWARD, major daughter
of the Deceased, unmarried in terms of Clause 4
of the Deceased's Will dated 23 July 2001)

- ⇒ Liability attaching = valuation cost
- ⇒ Motor vehicle financing

JSE SHARES
ANGLO GOLD
100 Ordinary Shares @ 500000 cps R500.000-00
HULAMIN
2000 Ordinary Shares @ 10000cps R200.000-00

Sold by Standard Equities
SALE PROCEEDS R700.000-00

⇒ Liability attaching = brokerage fees

PROPER DESCRIPTIONS - IDENTIFIABLE

JEWELLERY :

PLATINUM RING INSET WITH 5 DIAMONDS
DOUBLE STRAND PEARL NECKLACE WITH ROSE GOLD CLASP
SOLITAIRE 3 CARAT DIAMOND RING

Valued by Murdocks Jewellers R205.000-00

(Awarded to – DIVESTMENT NOTE)

PERSONAL ITEMS :

SILVER CANDLESTICKS

Valued by Max Antique Dealers R 50.000-00
(Awarded to)

LEATHER BOUND LAW REPORTS

Valued by PJ Bookbinders R250.000-00
(Awarded to)

STAMP COLLECTION

Valued by Bill Setag Philatelist R300.000-00
(Awarded to)

EBONY DINING TABLE WITH 6 CHAIRS

Sold by Sotherby's on auction R160.500-00

IRMA STERN PAINTING ENTITLED "CAT EATING TUNA"

Valued by Northern Art Dealers R990.000-00
(Awarded to)

50% MEMBERS INTEREST IN LIMELIGHT INVESTMENTS CC

Valued by Joe Kahn Accounting Officer R450.000-00
(Awarded to)

CLAIMS IN FAVOUR OF THE ESTATE
THINGS OWING TO THE DECEASED

AMOUNT OWING BY S K BRINK IN TERMS
OF AGREEMENT OF LOAN DATED 25
SEPTEMBER 1998

COLLECTED R X

• BANK ACCOUNTS :

STANDARD BANK
CURRENT ACCOUNT
ACCOUNT NUMBER 07 086 7626

CAPITAL R X
INTEREST ACCRUED
TO DATE OF DEATH R X R XX

• LOAN ACCOUNTS

LOAN ACCOUNTS IN BUSINESSES, CC's, CO's, TRUSTS, P/S's
I.E. MONEY OWED TO DECEASED =
ASSETS IN THE DECEASED'S ESTATE & MUST BE REFLECTED AS ASSETS
E.G.

BLUE SKIES CC
LOAN ACCOUNT R X
(COLLECTED)
OR
(AWARDED TO ...)

LIABILITIES

“NORMAL”, FUNERAL & ADMINISTRATIVE

ADMINISTRATIVE COSTS

Executor's remuneration - 3,5% gross assets plus vat (CMD 3/2009)

Master's Fee - Maximum R600-00

Costs of advertising - Section 29

Provision for advertising - Section 35

Costs of bond of security

Costs of valuing assets

- Immovable property – estate agent / sworn appraiser
- Assets in general – accountant, jeweller, auctioneer, stockbroker

Commissions for selling assets – agent's commission, brokerage fee, auctioneer's commission

FUNERAL COSTS & TOMBSTONE COSTS

Reasonable funeral costs – generally as presented to you by the undertaker & cemetery. Tombstone costs.

“NORMAL LIABILITIES” / CLAIMS AGAINST THE ESTATE

Bank overdraft

Loans

Credit cards

Mortgage bond

Motor vehicle financing

Money owing to Woolworths / Edgars

Rates

Income tax

Doctor's account

Maintenance claims

DESCRIPTION OF LIABILITIES – PROPER DESCRIPTION

Standard Bank Account number 345 987 358 Mortgage bond over Item 1 Amount outstanding	R234.500-00
Wesbank Account number 234 090 Financing in respect of Item 6 Amount outstanding	R25.000-00
Dr Ethan Ness Specialist oncologist Account 14/12/2011	R12.500-00
Doves Funeral Parlour Funeral costs	R 8.000-00
J J Cameler Tombstone	R12.000-00
SARS Income Tax iro periods 1 March 2010 to 28 February 2011	R5.000-00
1 March 2011 to 25 January 2012	R3.250-00

TAXES - BASICS

SECTION 25 INCOME TAX ACT 58/1962

INCOME RECEIVED BY AN EXECUTOR (AFTER DEATH INCOME – REFLECTED IN INCOME & EXPENDITURE ACCOUNT) SHALL BE DEEMED TO BE INCOME RECEIVED BY OR ACCRUED TO THE LEGATEES OR HEIRS.

AT THE VERY LEAST, THE EXECUTOR WILL HAVE TO DEAL WITH THE TAX PERIOD 1 MARCH TO DATE OF DEATH

NORMAL RATES APPLY – CURRENTLY :

MAXIMUM MARGINAL RATE = 40% WHERE TAXABLE INCOME EXCEEDS R617.000-00

MINIMUM MARGINAL RATE = 18% ON TAXABLE INCOME NOT EXCEEDING R160.000-00

TAX THRESHOLDS

	2012	2013
BELOW AGE 65	R59.750-00	R63.556-00
AGE 65 TO BELOW 75	R93.150-00	R99.056-00
AGE 75 & OVER	R104.261-00	R110.889-00

CGT

CGT IS PAYABLE ON THE DISPOSAL OF ASSETS

DEATH = A DISPOSAL OF ASSETS

THE DECEASED DISPOSES ASSETS AT VALUE AS AT DATE OF DEATH. THE ESTATE IS DEEMED TO HAVE ACQUIRED PROCEEDS AT MARKET VALUE (BASE COST) & HEIR RECEIVES AT BASE COST, EXCEPT NO CGT :

BEQUESTS TO SURVIVING SPOUSE, PBOs, LONG TERM INSURANCE POLICIES, FUND BENEFITS, PERSONAL USE ASSETS

ANNUAL EXCLUSION ON DEATH = R300.000-00

PRIMARY RESIDENCE = R2M

CGT RATE FOR INDIVIDUALS = 33.3% I.E. MAXIMUM EFFECTIVE RATE = 13.3%

MAINTENANCE CLAIMS

MAINTENANCE OF SURVIVING SPOUSES

COMMON LAW : OBLIGATION OF SUPPORT BETWEEN SPOUSES
TERMINATES ON DISSOLUTION OF MARRIAGE

THEREFORE, ACT 27/1990 – FOR REASONABLE MAINTENANCE NEEDS UNTIL
DEATH / REMARRIAGE INsofar AS OWN MEANS ARE INADEQUATE

S/S calculates & submits maintenance claim to executor who can accept / reject /
settle claim

OSHRY v FELDMAN 2010 (6) SA 19 (SCA)

S/S's maintenance claim ranks equal to dependant children claims & if they compete
with each other, they reduce proportionately

S/S's maintenance claim = normal liability

EX - SPOUSES

AT COMMON LAW, THE RECIPROCAL DUTY OF SUPPORT BETWEEN
SPOUSES COMES TO AN END ON DISSOLUTION OF THE MARRIAGE.
DIVORCE DISSOLVES THE MARRIAGE.

DIVORCE ACT 70/1979 VARIES THE COMMON LAW TO THE EXTENT THAT A
COURT MAY EXTEND THE DUTY OF SUPPORT AFTER THE DIVORCE BY
ORDERING THE PAYMENT OF MAINTENANCE IN CIRCUMSTANCES THAT ARE
"JUST".

AS TO WHETHER THE DUTY IS THEN EXTENDED TO AFTER THE DEATH OF
THE PAYING SPOUSE – WILL DEPEND ON WHETHER THE DIVORCE ORDER
IS BINDING ON HIS ESTATE.

ZWIEGELAAR v ZWIEGELAAR 2001 (1) SA 1208 (SCA)

KRUGER v GOSS [2010] 1 ALL SA 422 (SCA)

MAINTENANCE CLAIMS & DUTY OF SUPPORT OF CHILDREN

A PARENT'S DUTY TO SUPPORT A CHILD DOES NOT CEASE ON DEATH.

CLAIMS FOR MAINTENANCE FROM A DECEASED ESTATE ARE NOT SECURED OR PREFERENT CLAIMS AGAINST THE ESTATE. THEY ARE CONCURRENT CLAIMS & ARE DISCHARGED FROM & PAID OUT OF THE RESIDUE OF THE ESTATE.

WHERE THE RESIDUE IS INSUFFICIENT THEN LEGACIES MUST ABATE PROPORTIONATELY.

SUMMARY OF LIQUIDATION ACCOUNT

ASSETS

IMMOVABLE PROPERTY		X
MOVABLE PROPERTY		X
CLAIMS IN FAVOUR OF THE ESTATE		X
GROSS ASSETS		XX

LIABILITIES

NORMAL LIABILITIES	X	
FUNERAL & MEDICAL	X	
ADMINISTRATION COSTS	X	
TOTAL LIABILITIES	XX	
MINUS		
ESTATE DUTY IF APPLICABLE	X	
= BALANCE FOR DISTRIBUTION	XXX	
	XX	XX

LIQUIDATION ACCOUNT CHANGES ACCORDING TO MATRIMONIAL PROPERTY SYSTEM OF DECEASED

MARRIED OUT WITH ACCRUAL

WHO HAS ACCRUAL CLAIM AGAINST WHOM ?

ASSET / LIABILITY ?

- IF SURVIVING SPOUSE OWES DECEASED = ASSET

ADD THE ACCRUAL AMOUNT TO THE DECEASED'S ASSETS IN THE LIQUIDATION ACCOUNT

▶ ALSO = DEEMED ASSET FOR ESTATE DUTY PURPOSES

- IF DECEASED OWES SURVIVING SPOUSE = LIABILITY

ADD THE ACCRUAL AMOUNT TO LIABILITIES IN THE LIQUIDATION ACCOUNT

▶ ALSO QUALIFIES AS DEDUCTION FOR ESTATE DUTY PURPOSES – SECTION 4(LA)

(be careful not to deduct it twice under normal liabilities (4(b) and 4(IA))

MARRIED IN COMMUNITY OF PROPERTY

JOINT ESTATE – HAVE TO INCLUDE ASSETS & LIABILITIES OF BOTH SPOUSES AS AT DATE OF DECEASED'S DEATH

BUT : ESTATE DUTY IS ONLY PAYABLE ON DECEASED'S SHARE

EXECUTOR'S REMUNERATION IS CALCULATED ON GROSS JOINT ASSETS

IN COP - ESTATE DUTY ACCOUNT - HALF ASSETS & HALF LIABILITIES

ESTATE DUTY ACCOUNT

ASSETS AS PER LIQUIDATION ACCOUNT
(JOINT ESTATE)

X

ADJUSTMENTS

LESS : HALF – MARRIAGE IN COMMUNITY

PLUS : DEEMED ASSETS

GROSS ASSETS FOR ESTATE DUTY PURPOSES

LESS : ALLOWABLE DEDUCTIONS

(1) Section 4(a) – FUNERAL, TOMBSTONE & DEATHBED

FUNERAL	R10.000-00	
TOMBSTONE	R12.000-00	
DEATHBED	<u>R38.000-00</u>	R60.000-00

(2) Section 4(b) & (c) – NORMAL LIABILITIES

FULL LIABILITIES	R724.479-40	
EXCLUDE : FUNERAL, TOMBSTONE & DEATHBED	<u>R60.000-00</u>	
	R664.479-40	

HALF BALANCE LIABILITIES : R332.239-70

(3) Section 4(q) – SURVIVING SPOUSE

Inheritance -	R1.440.760-30	
Old Mutual –	<u>R1 000.000-00</u>	
	R2.440.760-30	

LESS SECTION 4A PRIMARY REBATE

R3.500.000-00

THEREFORE ESTATE DUTY @ 20% = NIL

CASH RECAPITULATION STATEMENT

GO BACK TO LIQUIDATION ACCOUNT & EXTRACT ALL CASH ASSETS &
ASSETS REDUCED TO CASH

TAKE TOTAL LIABILITIES

INCLUDE OTHER CASH THINGS THAT HAVE TO BE PAID

LEGACIES

ESTATE DUTY

EXAMPLE :

CASH ASSETS

Item 1 – house	xxx
Item 3 – motor vehicle	xxx
Item 6 – Nedbank	xxx
Item 7 – FNB	xxx

LESS :

TOTAL LIABILITIES	xxx
LEGACIES	xxx
ESTATE DUTY	xxx
CASH SURPLUS / CASH SHORTFALL	

DISTRIBUTION ACCOUNT

BALANCE AVAILABLE FOR DISTRIBUTION XXX

AWARDED :

DEDUCT **LEGACIES** FIRST xxx

THEN INHERITANCES – WHO, WHY, HOW MUCH, FORM

TO KALLIE BROWN, surviving spouse of the Deceased, in terms of Clause 5 of the Deceased's Will dated 2 July 2005

AWARD COMPRISES :

Item 1 – house	Rxxx	
Item 4 – JSE shares	Rxxx	
Balance CASH -	<u>Rxxx</u>	XXX

TO DUKE KENT, major son of deceased
In terms of Clause 6.2. of deceased's Will
dated 2 July 2005 xxx
AWARD COMPRISES : CASH

WHY

In terms of the deceased's Will
In terms of the deceased's Will AND Redistribution Agreement
In terms of intestate succession
In terms of intestate succession AND Redistribution Agreement

INCOME & EXPENDITURE ACCOUNT

ALL INCOME ACCRUED / EARNED AFTER DEATH

ALL EXPENDITURE INCURRED AFTER DEATH

- INCOME

1. INTEREST ON DECEASED'S BANKS ACCOUNTS EARNED BETWEEN DATE OF DEATH AND CLOSURE OF ACCOUNTS
2. INTEREST EARNED ON ESTATE BANK ACCOUNT
3. DIVIDENDS EARNED ON JSE SHARES
4. RENTAL INCOME

- AFTER DEATH EXPENSES

TELEPHONE ACCOUNTS
RATES ACCOUNTS
INSURANCE OF IMMOVABLE PROPERTY
HOUSE ALARM ACCOUNTS
CONTINUED EXPENSES FOR PROPERTIES
DOMESTIC SERVANTS
6% EXECUTOR'S REMUNERATION + VAT

TOTAL INCOME

LESS TOTAL EXPENDITURE

= SURPLUS / SHORTFALL INCOME

FIDUCIARY ASSETS ACCOUNT

ESTATE DUTY ACCOUNT

EXECUTOR'S CERTIFICATE

SEE SEPARATE

More advanced exercise :

DISTRIBUTION ACCOUNT

BALANCE FOR DISTRIBUTION 1.000.000-00

(Assets minus liabilities minus estate duty)

(Brought down from Liquidation Account)

ADD BACK FUNERAL COSTS 8.000-00

ADD BACK ESTATE DUTY 2.000-00

(If don't do this, s/s is paying half his estate duty & half his funeral)

GROSS VALUE 1.010.000-00

SURVIVING SPOUSE'S HALF SHARE

BY VIRTUE OF MARRIAGE IN COP 505.000-00

DECEASED'S HALF SHARE 505.000-00

LESS FUNERAL COSTS 8.000-00

LESS ESTATE DUTY 2.000-00

BALANCE FOR DISTRIBUTION **495.000-00**

AWARDED TO